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Scott. II-27—58,000—9/-10-42.

D (1950) Department.

M S-SERIES.

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G.O. NO. 1564

Dated 18-4-50

[Despatch Abstract.]

Acts & Rules - Co op. Societies Act - Section 57 - Protestant X'ian Coop. Societies

Appeal - Rejected

104892

THE PROTESTANT CHRISTIAN CO-OPERATIVES Ltd. South Kanara MANGALORE REGD. No. 2982

SECY. TO GOVERNMENT 2 COP 1949 DEVELOPMENT DEPARTMENT

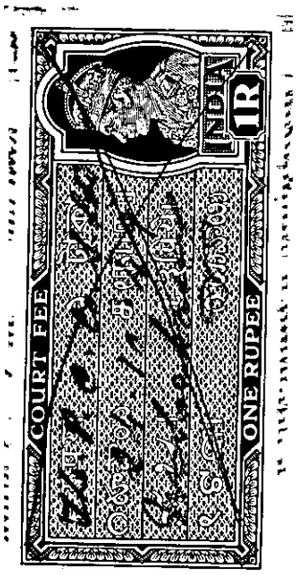
BEFORE THE SECRETARY, DEVELOPMENT DEPARTMENT,
GOVERNMENT OF MADRAS.

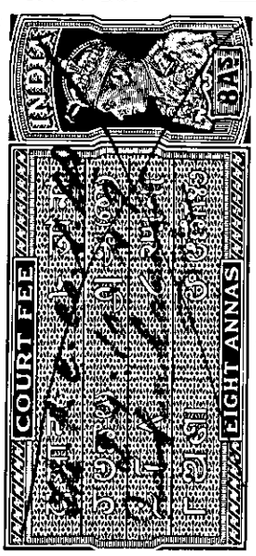
The Protestant Christian Co-operative Society Ltd., Mangalore ..) Petitioner.

and

Immanuel Samuel, ex-Secretary of the said Society. ..) Respondent.

Petition under Section 57 of Act VI of 1932 (Madras).





The Petitioner begs to state as follows:-

1. That the respondent filed a reference under Section 51 (1) against the petitioner for a decision for the refund of share money, etc., to the extent of Rs514-9-4 and it was decreed by the Deputy Registrar, Mangalore, on 26-9-1948 in Claim No.244/47-48.

2. That the respondent owes to the petitioner Rs217-12-1 for which a counter claim was filed on 23-4-1948 in the said Claim No.244/47-48 demanding a set off in the decision on the ground of first charge in favour of the petitioner under Sec.22 and By-law 36.

3. That the Deputy Registrar having overruled the Counter Claim of the petitioner and passed a decision as stated above an application was filed on 13-10-1948 for certified copy of the judgment for purpose of appeal to the Registrar.

4. That the petitioner received the certified copy only on 2-11-1948 and an appeal is under preparation.

5. That lest the respondent, who is an expelled member and ex-Secretary of the Society and a man of no means, should alienate his rights over the decision obtained by him so as to thwart any action that might

be taken by the petitioner for the recovery of sums due from him, the petitioner filed on 29-10-1948 an arbitration suit against the respondent applied for the attachment before judgment of the decree mentioned above before the Deputy Registrar, Mangalore.

6. That the respondent coming to know of the several actions taken by the petitioner against him filed an execution application in Claim No.244/47-48 against the petitioner praying for an attachment of the current deposit of the petitioner in the S.C.C.C. Bank, Ltd.

7. That though he has no powers to recover any moneys due under a decision or award passed in favour of individuals other than those obtained by registered societies as laid down in Section 57-A, the Deputy Registrar entertained the respondent's application for execution, and wrongfully attached the current-deposits of the petitioner lying in the S.C.C.C. Bank, Ltd., and ordered the withdrawal of the decretal amount from the said deposits, in spite of the fact that the Deputy Registrar knew that the petitioner had filed an application for attachment of respondent's decree previously as stated supra.

8. That the action of the Deputy Registrar in having admitted an execution application of the respondent and issued processes is unlawful, illegal and malafide.

9. That owing to the unlawful proceedings of the Deputy Registrar, the petitioner's goodwill has been

lowered in the eyes of the public and therefore the petitioner is entitled to claim damages from the Deputy Registrar.

10. That the petitioner moved the Registrar of Co-operative Societies, Madras, on 10-11-1948 praying for the setting aside of the execution and for redressing the injustice done by the Deputy Registrar of Co-operative Societies, Mangalore.

p 17 (Q)

11. That to the utter regret of the petitioner, the Registrar rejected the revision petition filed by him without assigning any reasons.

12. That the petitioner is therefore constrained to submit that though the illegality of the action of the Deputy Registrar is patent, the Registrar upheld his orders as against the ends of law, justice and fairplay.

13. Prays, that Government may kindly be pleased to call for all the records of inquiry from the Registrar and mete out justice to a corporate body represented by him by redressing the wrongs.

Mangalore,
18-10-1949.

For The Protestant Christian
Co-operative Society, Ltd.,

J. Nainappa
Petitioner.

Dev. Dept.

Endt. No. 104892 B II/49-1 dt.

Referred to the R.C.S. for very early remarks.

RSG
26.10.49

To
The R.C.S.
RD 26.11.49

(True Copy)

5

R.C. No.119563/48-L

OFFICE OF THE REGISTRAR OF
CO-OPERATIVE SOCIETIES, MADRAS.
DATED: 20.8.49.

Sri. J. C. Ryan, M.A.,
REGISTRAR.

ORDER UNDER SECTION 57 OF THE MADRAS CO-OPERATIVE SOCIETIES ACT.

M A D R A S.

Sub:- EXECUTION - The Protestant Xian Society, Mangslore - Revision petition in E.P.No. 62/48-49.

Read:- Revision Petition of the Protestant X'ian Co-Operative Society, Mangalore dated 10-11-48 and connected papers.

ORDER:

The revision petition is rejected.

(By Order)

Sd. x x x x x

RS.22/8.

To The Protestant Xian Co-op.Society, M A N A G E R.
Mangalore.
Copy to the Deputy Registrar, Mangalore.
(Through the D.R. Mangalore)

R.T.O.

6

RS. 4321/48A.

Forwarded to the Secretary, The Protestant Christian Co-operative Society Ltd.

(Sd.) M. Srinivas Shanbogue.
Deputy Registrar, Mangalore.
31.8.'49.

(True copy)

For The Protestant Christian
Co-operative Society Ltd.

Secretary

21/5/11

7

Dev. Dept

Memo. 104892 B II/49-1 dt. 4.11.49

Sub :- Co-operative Societies — Appeal under Sec. 57 of the Co. of Societis Act — Petition from the Secy. The Protestant Christian Co-operative Society Ltd., Mangalore.

Ref :- Petition from the Secy., The Protestant Christian Co. op. Society, Mangalore, dt. 18.10.49

Pp 1-3 C.F.

A Copy of the appeal petition cited is Communicated to Sri Immanuel Samuel, ex-Secretary of the Protestant Christian Co. op. Society. He is requested to submit any representation he may wish to make in respect of the petition. this representation should be submitted to Govt. before 25.11.49.

3.11.49

To
Sri Immanuel Samel,
Ex-Secy., The Protestant
Christian Co. op. Society,
Mangalore RD. 25/11/49

Before the Secretary Development Department,
Government of Madras,
MADRAS.

The Protestant Christian Co-operative Society Ltd., Mangalore.) PETITIONER.

Immanuel Samuel, (Ex-Secretary, The Protestant Christian Co-operative Society Ltd., Mangalore, residing at Balmatha, Mangalore.) RESPONDENT.

FIRST ASST. SECRETARY TO GOVERNMENT
28 NOV 1949
DEVELOPMENT DEPARTMENT

Respondent begs to file the following statement called for by Government in Memorandum No.104892 BII/49-1, dated 4-11-1949.

1. The petition is frivolous and unsustainable and is intended to harass the respondent.

2. The decree in claim No.244/47-48 was duly appealed against the petitioner and the learned Additional Joint Registrar of Co-operative Societies after hearing both sides who were represented by lawyers confirmed the decree by order dated 30-4-1949 (R.C.No.106864/48 B.)

3. The petitioner presented a revision to Government and a copy was forwarded to respondent by Government in Memorandum No.68114/BII/49-1, dated 5-7-1949, and respondent has duly filed his statement on 25-7-1949.

4. The allegation in para 4 of the petition is therefore meaningless.

5. The respondent denies that he owes any amount to the petitioner. The alleged counter claims consist of amounts debited to respondent by resolutions of the Board of Directors behind back of the respondent and the said amounts are not legally recoverable. The learned Deputy Registrar as well as the Appellate Authority were, it is submitted, perfectly justified in referring the petitioner to file a separate claim in respect of the counter-claim. The petitioner is at liberty to initiate proper proceedings by filing a claim if so advised as appearing in the order of the Deputy Registrar. The petitioner could have done so but it is only harassing the respondent and is also wasting the time of the Government by inviting Government to go through files which have been very elaborately considered by the Deputy Registrar as well as by the Additional Joint Registrar.

6. The alleged claims consist among others (1) Travelling allowance drawn by respondent as per resolution of the previous Board of Directors; (2) Credit Sales which proved to be bad debts; (3) Fines imposed by the present President and similar items which will never be upheld in a judicial proceeding. The respondent begs to produce a copy of his letter dated 11-12-1946 to the Deputy Registrar of Co-operative Societies as it explains the entire situation. The Government may also be pleased to peruse the judgment of the Deputy Registrar in Claim No.244/47-48.

7. The petitioner is deliberately withholding amounts lawfully due to respondent and a Claim No.414/48-49 for Rs.445/- is now pending enquiry.

8. The respondent submits that the allegation in para 5 of the petition that respondent is a man of no means is false and has been recklessly made by the President who it may be noted is threatening legal action even against Deputy Registrar (vide para 9 of the petition).

9. The respondent is entitled to execute the decree obtained by him by attachment. The ground put forward that respondent is an "expelled" member is frivolous because the claim is in respect of a period during which respondent was a member.

10. It is submitted that Sec.57-A quoted by petitioner in para 7 of the petition expressly provides that the power conferred on the Registrar and subordinate officers is "without prejudice to any other mode of recovery provided by or under the Act"

The Government may therefore be pleased to reject the petition of the Society.

Mangalore,)
21-11-1949)

Petitioner.

I, Immanuel Samuel do hereby declare that the facts stated above are true to the best of my knowledge.

Mangalore,)
21-11-1949.)

Petitioner.

Encl. 1 Copy letter dt. 11.12.46

IMMANUEL SAMUEL. *True copy* 13

Balmatha,
Mangalore,
11th December, 46.

The Deputy Registrar of Co-operative
Societies,
South Kanara,
MANGALORE.

Humble memorial of Immanuel Samuel, residing at Balmatha, New Road, Mangalore

Respectfully sheweth:-

Your petitioner was a paid Secretary of the Protestant Christian Society Ltd., No.2695 Mangalore since 1939 and before that he was an Honarary Secretary for over 14 years. His record of service in the said Society is without any blemish.

In August 1946 there was a change in the Directorate and the New Board headed by its President Mr. Christian Kariappa took up a hostile attitude against your petitioner and with the sole object of harassing him began to write letters in vituperative language making scandalous remarks not only against your petitioner but against members of the former Board of Directors. Copies of a few letters written by the President are annexed hereunto for your kind perusal.

The Board appointed a Treasurer though this is not provided for in the By-laws. This was done simply to spite the petitioner. On account of the extremely unhealthy atmosphere created by the President Mr. Christian Kariappa and in the larger interests of the Society, petitioner thought it best to tender his resignation which he did by letter dated 21-9-46 to the President (copy enclosed)

The President instead of accepting the said resignation, purported to suspend the petitioner from service and caused the suspension order to be published in the local papers as well as Madras papers with a view to defame the petitioner. He got a copy of the notification in the papers affixed to the door of the Office of the Society after it was publicly read out to all the workers. Further, he issued orders that the workers should not either talk or have any personal dealings with the petitioner. They even resolved I understand, in one of the meetings of the Directors that they should seek your permission to get an injunction on the petitioner's house and property on the grivolous and slanderous ground that the petitioner was going to sell the same.

In all these ways, the President has been continuously harassing and defaming the petitioner which the petitioner submits no decent man can endure. He continued to persue his campaign of vilification by calling for explanations for imaginary direlection of duty etc. on the part of petitioner which were all duly replied to. The campaign came to a head on 15-11-46 when Resolution No.293 was passed by the Board of Directors and communicated to the petitioner (copy enclosed) whereby various charges were framed against petitioner.

(5)

The petitioner denied all the charges and warned the President about the futility of the charges and informed him that the proceedings civil and criminal threatened by him were awaited. Though the Board had threatened to dismiss the petitioner from service, good sense appears to have dawned upon them at a late stage and by their letter dated 26-11-46 the Society accepted the resignation tendered by the petitioner as aforesaid. The Society has however not yet paid petitioner's salary ever since Sept 1946.

The petitioner submits that the action of the Board has been very high-handed and malicious throughout. The resignation was tendered by petitioner by way of protest against the scurrilous language used by the President in his letters. He is prepared to re-join duty if the Board of Directors treat him with courtesy that he is entitled to. With this object in view, the petitioner prays that the Deputy Registrar may be pleased to hold an enquiry in this matter and to issue necessary directions both to the Board and the petitioner.

For which act of justice, petitioner shall ever remain grateful.

I beg to remain respected
Sir,
Your most obedient servant.

Enclosures:

Messrs Srinivas Brothers. Mangalore.

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30/11

Development Dept

Memo No. 104892 BII/49-2 dated 29-11-49

Sub Acts and Rules - Co-op Societies Act - Petition under Sec 57 - The Protestant Christian Co-op. Society Ltd Mangalam.

Ref From the Protestant Christian Co-op Society Ltd Mangalam dt 18.10.49

From Sri. Immanuel Samuel - Ex. Secy Protestant Christian Co-op Society dt 21.11.49

fols 1-5 CF
fols 9-15 CF

Copies of the correspondence cited are forwarded to the R.C.S. for remarks. He is requested to send all relevant records for reference.

To The R.C.S.
(with records)

29/11/49

29/11/49

29/11/49

COOPERATIVE DEPARTMENT

From
Sri J. C. Ryan. M.A.,
Registrar of Cooperative Societies,
Chepauk, Madras.

To
The Secretary to Government,
Development Department,
Fort St. George, Madras.

Rc.No. 164229/49-L Dated 5-3-50.

Sir,

Sub: EXECUTION - E.P.62/48-49 on the file of the Registrar of the District Mangalore against the Protestant Xian Cooperative Society - Mangalore - Appeal by the Society.

FIRST ASSISTANT TO GOVERNMENT
9 - MAR 1950
DEVELOPMENT DEPARTMENT

Ref: Government Memo. 104892 B.II./49-2 Development dated 29-11-1949.

-o-

I offer below my remarks on the appeal petition of the Protestant Xian-Cooperative Society, Mangalore, a copy of which was forwarded to me with the Government endorsement cited.

2. The respondent Sri Immanuel Samuel, a member and Ex-Secretary of the petitioner viz., the Protestant Xian Cooperative Society, Mangalore filed on 12-11-1947 an arbitration reference against the petitioner in claim No.244/47-48 on the file of the Deputy Registrar Mangalore, in respect of sums due to him by way of share capital, dividend, staff provident fund and thrift deposits. In the course of the enquiry of the arbitration reference, the petitioner-society while admitting the claim, filed on 23-4-1948 a counter claim for Rs.217-12-1 against the respondent, and requested for a set off to that extent. As the counter-claim formed the subject matter of a separate reference, it was not allowed by the Deputy Registrar. A decree was passed by the Deputy Registrar on 26-9-1948 against the petitioner society for Rs.514-9-4.

3. An application for a copy of the judgment in claim No. 244/47-48 was filed by the society on 15-10-1948 before the Deputy Registrar without remitting the requisite copying fees. The society remitted the fees on 28-10-1948 and a copy of the judgment was issued to it on 2-11-1948.

4. In the meanwhile, the respondent filed an Execution Petition in cl.244/47-48 before the Deputy Regstrar on 19-10-1948 praying for attachment and payment of the amount held in current account by the society with the South Canara Cooperative Central Bank, Mangalore. Prohibitiory notice and order were issued to the Central Bank on 5-11-1948 simultaneously, and a sum of Rs.536-1-5 was collected in full satisfaction of the claim and paid to the respondent, decree-holder, on 6-1-1948.

5. On 28-10-1948, the Society filed before the Deputy Registrar an arbitration reference for Rs.217-12-1 against the respondent. The said amount had been claimed by the society as a counter in claim No.244/47-48, but was disallowed by the Deputy Registrar as indicated in para 2 above. Along with the arbitration reference, the society filed an application for the conditional attachment of the decree obtained by the respondent in claim No. 244/47-48. On a scrutiny of the arbitration reference, the Deputy Registrar, found that it was one under section 51(1) (c) of the Act and that "the cause and the date of cause of action", were not made clear in it.

p.t.o.

He could not, therefore entertain it without making a further reference to the society to clarify certain points and to satisfy that the reference was within time. Further a revision petition was filed by the society before the Additional Joint Registrar against the award passed in claim No.244/47-48 pressing for the society's claim in respect of the same sum of Rs.217-12-1 against the respondent. The arbitration reference was not therefore taken on file and the conditional attachement application proceeded with by the Deputy Registrar. The claim was subsequently returned by the Deputy Registrar in his L.No. 3807/48-A dated 28-12-1948 (vide disposal enclosed) on the ground that the society was not entitled to seek redress in two ways simultaneously in respect of its claim of Rs.217-12-1.

6. The appeal filed before the Additional Joint Registrar by the petitioner-society against the award in claim 244/47-48, was rejected on 30-4-49. Against the order of the Additional Joint Registrar, the society preferred an appeal to Government who rejected it in their order Ms.5023 Development dated 12-10-1949

7. The respondent, I. Samuel filed on 20-11-48 before the Deputy Registrar, Mangalore another arbitration reference in Cl.414/48-49 against the society claiming a sum of Rs. 445/- alleged to be due to him by the society by way of bonus and dividend; and it is pending enquiry by the Deputy Registrar (Vide paragraph 7 of the respondent's reply dated 21-11-1949 to the Government Memo. 104892 B.II/49-1 Dated 4-11-1949).

8. The main allegation of the petitioner society, is that though under section 57.A. of the Deputy Registrar had no powers to entertain the respondent's application for execution of the award yet he admitted it and attached the amount held in current account by the petitioner society with the South Kanara Cooperative Central Bank. Section 57-A of the Madras Cooperative Societies Act, inter alia, provides for the recovery, through the Cooperative Department, of any amount due under a decision or an award of the Registrar of Arbitrator obtained by a registered society. But it does not provide for the recovery of any sum due by a registered society, under a decision, or award. On the appeal petition of the society filed before me, the Deputy Registrar was asked to offer his remarks as to how he entertained the execution petition of the decree in claim No. 244/47-48 obtained against the society in the absence of a specific providion in Section 57-A. He put forward the following in support of his action:-

"Though a general reading of Section 57-A would appear to convey the meaning that awards obtained by a registered societies including a financing bank of liquidator or Government could be executed departmentally, section 51(4) clearly empowers the Registrar to entertain applications for attachment before judgment made by any party to a reference under section 51(1). Under this section, no restriction is laid down regarding applications from individuals who are parties to arbitration references undersection 51(1) and under rule XXIII of the Rules framed under the Act, the attachment of propetty made under section 51(4) shall be made in the manner provided for under Rule XXII. Thus, when powers of attachment before judgment, are vested in the Registrar even in respect of applications made by individuals, it is implied that applications filed by individual decree-holders in respect of awards obtained under section 51(1) can be executed departmentally. Sub-Rule (7) (a) of Rule XV lays down that on an application to the Registrar of the District, in which the cause of action arose, the decision or award obtained under section 51 shall be enforced as provided for in Rule XXII.

p.t.o.

Under section 38 of the Civil Procedure Code, a decree may be executed either by the Court which passed it or by the Court to which it is sent for execution. Thus the Deputy Registrar who passed the award has the power to execute it. In these circumstances, I submit that the contention of the society that the Deputy Registrar admitted, the Execution Petition and issued processes illegally, is wrong".

9; Under rule XXII of the Rules framed under the Madras Co operative Societies Act," any decreee-holder requiring the provisions of Section 57-A of the Act to be applied, shall apply to the Registrar of District." The term "Decree-holder" is significant in that it has been defined in the rules as "Any society or any person (including the Government) holding a decree as defined in clause (d)" of the definitions under the Rules. "Decree" according to clause (d) means "any decree order, decision or award referred to in section 57-A of the Act". Read with Section 57-A, the expression "any person appearing in the definition for"decree-holder" may be said to refer to a "liquidator" and not to ANY INDIVIDUAL holding a decree under Section 51 of the Act. The Deputy Registrar's reference to Section 51(4) of the Act empowering him to entertain applications from individuals for attachment before judgement, had no bearing to the case under reference as the execution petition was filed after obtaining the decree in claim No. 244/47-48. Nor did section 38 of the Code of Civil Procedure have any application to the execution petition before the Registrar of the District. Hence instructions were issued to the Deputy Registrar in my Rc. 119563/48-L dated 20-8-1949 drawing his attention to the absence of specific provision in Section 57-A. of the Madras Cooperative Societies Act for the execution of decrees obtained against registered societies. The Deputy Registrar was also told that he should have exercised better judgment in the case and should not have executed the decree against the petitioner-society in haste. The appeal petition filed before me by the Society was, however, rejected as only the amount which was really due under a decree was recovered and paid and as any reversal of the Deputy Registrar's orders would only involve further litigation which was not desirable on administrative grounds.

10. In conclusion, I wish to state that although, the Deputy Registrar's action in having executed the decree in claim No.244/47-48 against the society is not in conformity with Section 57-A of the Act, yet the fact remains that the society had to pay the amount due under the decree. In his petition dated 23-4-1948 before the Deputy Registrar, the Secretary of the Society did accept the claim amount although he pleaded that the sums referred to in the counter-claim should be sett off against the dues under the decree. Even if the respondent had preferred to execute the decree in claim No. 244/47-48 through a Civil Court, the Society's liability to pay the amount would not have been extinguished. Nothing prevented it from setting off the amounts claimed by it against the amount it owed to the respondent even before the arbitration reference in claim No.244/47-48 was preferred by the respondent. In view of the fact that the amount due in claim No.244/47-48 had already been recovered by the Deputy Registrar and paid to the decreeholder (viz., the respondent), no purpose will be served by annulling the proceedings of the Deputy Registrar in Execution Petition 62/48-49 on grounds of want of jurisdiction of on any other technical grounds. I request, therefore, that Government may reject the appeal petition of the society.

11. I submit herewith the following records for reference and return.

In view of the above circumstances

P. T. O.

22

1. Records of the Deputy Registrar, Mangalore:

1.	Arbitration claim No. 241/47-48	112 pages
2.	E.B. File N.62/48-49.	16 pages
3.	Copy appalication C.A 4/48-49.	4 pages
4.	L.Dis. 3807/48-A.	36 pages
5.	Copy of plaint in claim 414/48-49.	14 pages.

II. Records of my office

1.	Disposal D. 119563/48-L	C.F. 20 pages. N.F. 8 pages.

12. In respect of the point raised by the Deputy Registrar regarding the jurisdiction of the Registrar to entertain applications against a registered society for conditional attachment under section 51(4) of the Madras Cooperative Societies Act, I am making a separate reference to Government.

P Adyanthaya

FOR REGISTRAR.

c.s.j. 7-3. K
8/3/

Dem. Dt
25

Subj:- Acts & Rules - Co-op. Societies Act - Section 57 -
Protestant Xian Co-op. Society - Appeal - Rejected

Read:- Petition from the Protestant Xian Co-op. Society Mangalore
dt. 18.10.49

From the R.C.S. Dv.No. RC 16422 9/49 dt. 5-3-50

GRDEA (MS). 1564 dt 18/4/50.

The revision petition is rejected

By order

To
Sri T. Rama Rao,
Protestant Xian Co-op. Society,
Mangalore.

Copy to the R.C.S. (with records as per his letter returned)

DEVELOP[redacted] DEPARTMENT B.II

Sub:- Acts and Rules- Cooperative Societies Act- Section 57- Revision petition by the Protestant Christian Cooperati Society, Mangalore.

C.No. 104892/49

Ref:- Petition from the Protestant Xian Cooperative Society, dated 18-10-49 [Memo. to Sri Immanuel Samuel, Ex-Secretar of the Protestant Xian Cooperative Society, No.104892-B.II/49-1, dated 4-11-49. — pp.1-3 c.f.

Petition from ~~Protestant Xian Cooperative Society~~, No. ~~104892-B.II/49-1, dated 21-11-49~~ dated 24.11.1949 — pp.9-11 c.f.

Memorandum to the R.C.S.No.104892-B.II/49-2, dated 29-11-49. — p.17 c.f.

Letter from the R.C.S. Rc.164289/49-L, dated 5-3-50. — pp.19-22 c.f.

This file relates to a revision petition under section 57 of the Cooperative Societies Act from the Protestant Xian Cooperative Society Ltd., Mangalore, against the Registrar's order No.R.C.119563/48-L, dated 20-8-1949. The facts of the case are briefly as follows: — p.17 c.f. (Q)

Sri . Immanuel Samuel a member and Ex-Secretary of the Protestant Xian Cooperative Society filed on 12-11-1947 an arbitration reference against the Society in respect of sums due to him by way of share capital etc. In the course of the enquiry of the arbitration reference, the Society, while admitting the claim, filed a counter-claim for Rs.217-12-1 against Sri Immanuel Samuel and requested a set off to that extent. As the counter-claim formed the subject matter of a separate reference, it was not allowed by the Dy. Registrar who passed a decree on 26-9-48 against the Society for Rs.514-9-4 On 19-10-48, Sri Immanuel Samuel filed an execution petition before the Deputy Registrar praying for attachment and payment of the amount held in current account of the society with the South Kanara Cooperative Central Bank. The Deputy Registrar admitted the petition, attached the current account of the Society, realised the decree amount and paid it to the decree holder. Against this the Society filed an appeal to the Registrar, questioning the validity of the action of the Dy. Registrar. The appeal was rejected in the Registrar's order No.Rc.119563/48-L, dated 20-8-49. The present revision petition is against this order. The petition is at pp.1-3 c.f. The representation of Sri Immanuel Samuel against the revision petition is on pp.9-11 c.f. The Registrar's remarks on the revision petition are on pp. 19-22 c.f.

para 2, p.19 c.f. — dw —

— dw —

para 4, p.19 c.f.

pp.5-7 c.f. (Q)

p.17 c.f. (Q).

P.T.O

The main contention of the appellant society is that the Deputy Registrar has no power to recover any moneys due under a decision or award passed in favour of individuals, as section 57-A of the Cooperative Societies Act, only empowers him to recover amount due under a decree obtained by a registered society and not individuals. In his remarks, the Registrar has admitted that the Deputy Registrar's action in having executed the decree in favour of an individual is not in conformity with the provisions of section 57-A of the Act, and that the Deputy Registrar committed an error, in judgment, in relying on some other provisions of the Act, which is not relevant to the case. He, however, recommends the rejection of the revision petition for the following reasons. In its petition before the Deputy Registrar, the Society admitted the amount claimed by Sri Immanvel Samuel although it pleaded that the sums referred to in the counter-claim should be set off against the dues under the decree. Even if the decree holder preferred to execute the decree through a civil court, the Society's liability to pay the amount would not have been extinguished. As the amount due to the decree holder had already been recovered by the Deputy Registrar and paid to him, no purpose will be served by annulling the proceedings of the Deputy Registrar, on grounds of want of jurisdiction or on any other technical grounds, and would only involve further litigation which is not desirable on administrative grounds.

It is submitted that the present revision petition has been preferred under Section 57 of the Cooperative Societies Act. It is seen from the records of the case that the action of the Deputy Registrar is without jurisdiction. When such is the case, it is not clear whether it is lawful for the Govt. at Madras to reject the petition on the grounds set out by the R.C.S. Legal may be requested to advise on this point.

25/3/50

ASSISTANT SECRETARY
48 38
28MAR1950
LEGAL DEPARTMENT

Dev. U. 010 9892
B.P.—3.M-27.3.50

LEGAL DEPARTMENT.

The point whether the Deputy Registrar's action in this case was without jurisdiction cannot be said to be free from doubt, in view of the specific provision contained in rule XV(7).

2. Section 57 of the Co-operative Societies Act is merely an enabling provision and it is not obligatory on the Government to revise the order of the subordinate officer even assuming that such order was passed without jurisdiction.

29366
1-9-50

Legal No: 4838/50-I

30/3/50

Dev. Deptt

This Deptt's note ontp 1-2 above and legal Deptt's note above may be perused. Further orders whether the appeal may be rejecte

6/4/50

10.4.50

12.4.50

With reference to orders in circulation, alone/a draft order is submitted for approval.

14.4.50 17/4/50

[Issued as Go. 1564 Dev. dt. 18-9-50]

C.No.2621/50.

(4)

LEGAL DEPARTMENT.

Motor Vehicles - Stage carriages and public carriers Opening of new routes or additional service on existing routes - Prior approval of Chairman, C.R.T.B. - Revision petitions against T.C's orders - Entertaining of.

The Chairman, C.R.T.Board is an officer subordinate to the Government and his administrative acts will be subject to the control of, and reversal or modification, if need be, by the Government. There is however no statutory right to ask for the revision of those acts. As to point (ii) therefore, the position is as stated by Home in their note above.

K.G.V.20-2-50.

K.V.R.20-2-50.

Home.

Home. It would therefore appear that under section 64-A no revision petition can lie to the Government as a matter of statutory right against an administrative order passed by the Chairman, C.R.T.Board.